IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.651 of 2011

Date of decision : 19.04.2017

Sanjna Rani and others

......Appellants

Versus

Baljit Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Ashok Bector, Advocate for appellants.

Mr. Subhash Goyal, Advocate with
Mr. Nitin Mittal, Advocate for respondent No.2-Insurance Company.

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DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 16.08.2010, passed by learned Motor Accidents Claims Tribunal, Ropar (hereinafter called the "Tribunal"), whereby in the claim petition filed by the appellants-claimants under Section 166 of the Motor Vehicles Act, 1988 (for short – the "Act") the appellants-claimants have been awarded compensation to the tune of ₹16,88,000/- on account of death of Vijay Kumar in a roadside accident which took place on 18.10.2009.

2. The present appeal has been preferred by the appellants-claimants for enhancement of award of compensation.

3. I have heard learned counsel for the parties and have gone through the record of the case carefully.

4. Initiating the arguments, learned counsel for the appellants-claimants contended that the learned Tribunal has wrongly deducted 1/3rd of the income of the deceased towards his personal and living expenses, through he had four dependents. He further contended that no future prospects have been awarded towards the income of the deceased. Wrong multiplier has been applied. Very less amount has been awarded towards the conventional heads. No amount has been awarded towards loss of love and affection to the minor child and parents of the deceased. Thus, he contended that the amount of compensation awarded by the learned Tribunal is highly inadequate.

5. On the other hand, learned counsel for respondents No.2-Insurance Company contended that the learned Tribunal has rightly determined the amount of compensation. The learned Tribunal has taken into consideration all the relevant heads for grant of amount of compensation. Thus, he contended that there is no scope of any further enhancement in the amount of compensation so awarded by the learned Tribunal.

6. I have duly considered the aforesaid contentions.

7. As per the case of the claimants, deceased Vijay Kumar was earning ₹65,000/- per month and he was working in batching plant in a company at Kuwait. The learned Tribunal after taking into consideration the oral as well as documentary evidence determined the income of the

deceased to be ₹15,000/- per month, which could not be seriously disputed at the time of arguments by learned counsel for the appellants in the absence of any documentary evidence with respect to the employment of the deceased. So, the learned Tribunal has rightly determined the income of the deceased to be ₹15,000/- per month.

8. The learned Tribunal has not awarded any future prospects to the income of the deceased. The deceased was working abroad in a company, so it was certain that his income was bound to increase with the passage of time. The deceased was 25 years of age at the time of his death, so 50% of the income of the deceased is required to be added towards future prospects. The total income of the deceased comes to ₹22,500/- per month (15,000 + 7500) *i.e.* ₹2,70,000/- per annum.

9. The deceased had four dependents namely Smt. Sanjna Rani his widow, Rana Chander Bhan minor son and his parents. The learned Tribunal has wrongly deducted $1/3^{rd}$ of the income of the deceased towards his personal and living expenses. In view of the number of the dependent family members, $1/4^{th}$ of the income of the deceased is to be deducted towards his personal and living expenses. Thus, the remainder comes to ₹2,02,500/- (2,70,000 – 67,500). The learned Tribunal has also applied the wrong multiplier of 14. The deceased was 25 years of age at the time of his death, so multiplier of 18 should have been applied. Thus, the loss of dependency comes to ₹36,45,000/- (2,02,500 x 18).

10. In addition to that Smt. Sanjna Rani, the widow of deceased shall be entitled to a sum of ₹1,00,000/- towards loss of consortium,

appellant-claimant Rana Chander Bhan the minor son of the deceased shall also be entitled to a sum of ₹1,00,000/- on account of loss of love, care and guidance of his father. The parents of the deceased shall also be entitled to a sum of ₹1,00,000/- towards loss of love and affection of their son. The claimants shall also be entitled to a sum of ₹25,000/- towards funeral and last rites expenses. Thus, the total amount of compensation payable to the claimants is summed up as under:-

Sr. No.	**Heads of compensation**	**Amount of compensation** ***(in rupees)***
1.	Loss of dependency	36,45,000
2.	Loss of consortium to appellant-claimant No.1 Smt. Sanjana Rani (widow of the deceased)	1,00,000
3.	Loss of love, care and guidance to appellant-claimant No.2 Rana Chander Bhan (minor son of the deceased)	1,00,000
4.	Loss of love and affection to appellants-claimants No.3 & 4 (parents of the deceased)	1,00,000
5.	Funeral and last rites expenses	25,000
	Total	**39,70,000**

11. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to the appellants-claimants is enhanced to ₹39,70,000/- from ₹16,88,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation and the apportionment amongst

the claimants shall remain the same as determined by the learned Tribunal in the main award.

12. As the matter with respect to future prospects has been referred to the Larger Bench of the Hon'ble Apex Court in case ***National Insurance Company Vs. Pushpa, 2015 (9) SCC 166***, in order to safeguard the interest of respondent-Insurance Company, the amount of compensation under the head future prospects shall be disbursed to the appellants-claimants against adequate security in the form of sufficient indemnity bonds to the satisfaction of the learned Tribunal/executing Court, wherein the claimants will undertake that if the Hon'ble Apex Court adjudicates that the casual labourers/persons not holding the permanent jobs will not be entitled to the future prospects, then they will be bound to refund the amount of future prospects received by them on moving the requisite application by the respondent-Insurance Company and the learned Tribunal will be competent to take the steps without making any reference to this Court.

19.04.2017 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No